

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff,

V.

TEXAS INSTRUMENTS, INC., *et al.*,

Defendants.

Civil Action No. 6:12-CV-499
(Consolidated from 6:12-CV-526)

JURY TRIAL DEMANDED

**PLAINTIFF’S REPLY IN RESPONSE TO DEFENDANT
VIGGLE INC.’S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of Defendant Viggle Inc. (“Viggle” or “Defendant”) (Dkt. No. 16) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

NATURE AND BASIS OF ACTION

1. Plaintiff admits that Defendant purports to bring its counterclaims under the Declaratory Judgment Act and that it asks the Court to find that: (i) it does not infringe the patents-in-suit; and (ii) the patents-in-suit are invalid.

PARTIES

2. Plaintiff admits the allegations of Paragraph 2, upon information and belief.

JURISDICTION AND VENUE

3. Plaintiff admits that this Court has subject matter jurisdiction over Defendant's Declaratory Judgment claims.

4. Plaintiff admits that it is subject to personal jurisdiction in this Court.

5. Plaintiff admits that that is has contacts sufficient to confer specific jurisdiction and that it has consented to this Court's personal jurisdiction.

6. Plaintiff admits that venue is proper in this District.

**FIRST COUNTERCLAIM
(DECLARATORY JUDGMENT OF NON-INFRINGEMENT)**

7. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 6 above.

8. The allegations in Paragraph 8 are admitted.

9. Plaintiff admits there is an actual controversy.

10. The allegations in Paragraph 10 are denied.

11. The allegations in Paragraph 11 are denied.

12. The allegations in Paragraph 12 are denied.

13. The allegations in Paragraph 13 are denied.

14. The allegations in Paragraph 14 are denied.

**SECOND COUNTERCLAIM
(DECLARATORY JUDGMENT OF INVALIDITY)**

15. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 14 above.

16. The allegations in Paragraph 16 are denied.

17. Plaintiff admits there is an actual controversy.

18. The allegations in Paragraph 18 are denied.

PRAYER FOR RELIEF

Plaintiff denies that Defendant is entitled to any of the relief it requests.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

(a) That Defendant take nothing by its Counterclaims;

(b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and

(c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Dated: October 24, 2012

Respectfully submitted,

/s/ Randall T. Garteiser
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Counsel for Blue Spike, LLC

CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser
Randall T. Garteiser